



FREDERICK COUNTY PLANNING COMMISSION

April 24, 2013

TITLE: Westview South MXD Phase I
Amendment

FILE NUMBER: R-00-02(A)

REQUEST: Amend Phase I MXD
Amend the Phase I Plan for the Westview South MXD to include residential land use (615 dwellings), and to rezone an additional 9.33 acres from Limited Industrial (LI) to Mixed Use Development (MXD).

PROJECT INFORMATION:

LOCATION: Between New Design Rd. and MD85 on north and side sides of Executive Way

ZONE: MXD

REGION: Frederick

WATER/SEWER: S-3/W-3 and S-5/W-5

COMP. PLAN/LAND USE: Office/Research/Industrial and Limited Industrial

APPLICANT/REPRESENTATIVES: (as applicable)

APPLICANT: Matan Properties

OWNER: Westview South Holdings, LLC

ENGINEER: Harris Smariga & Associates, Inc.

ATTORNEY: Rand D. Weinberg, Esq.

STAFF: John Dimitriou R.A., Principal Planner

RECOMMENDATION: Staff recommends APPROVAL of the request to amend the Phase I MXD Plan with the conditions as stated in the attached staff report.

Enclosures:

Staff Report

Rezoning Application

Zoning Map Amendment

April 15, 2013

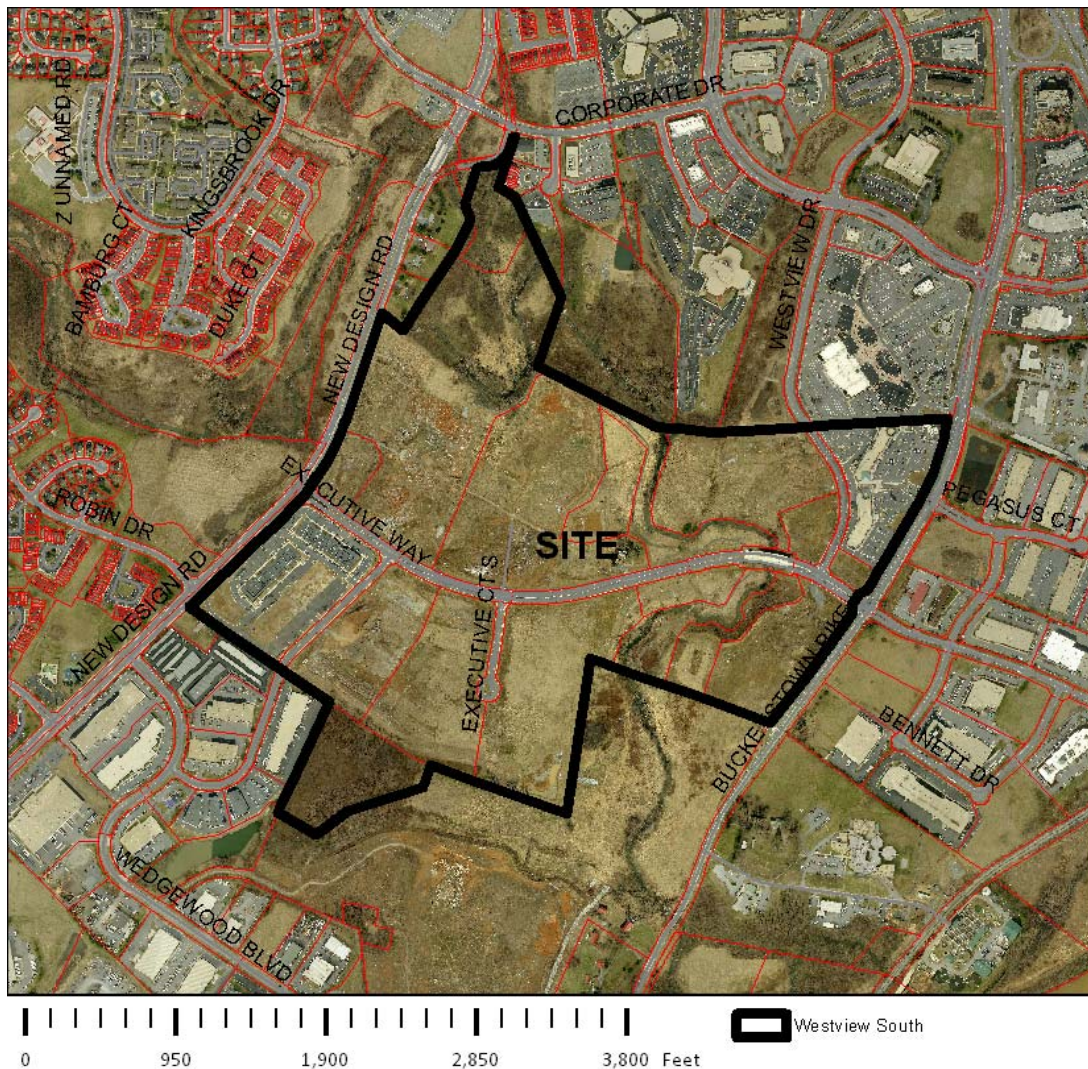
CASE NUMBER: R-00-02A

PLANNING REGION: Frederick

APPLICANT: Westview South Holdings LLC representing several separate LLC's for individual parcels

REQUEST: Amend the Phase I Plan for the Westview South MXD to include residential land use (615 dwellings), and to rezone an additional 9.33 acres from Limited Industrial (LI) to Mixed Use Development (MXD).

LOCATION: Between New Design Rd. and MD85 on north and side sides of Executive Way



I. Background

This Phase I MXD application is an amendment to a previous approval for the Westview South MXD (R-00-02). The approved land use mix is as follows:

Currently Approved Land Use Mixture – 200.7 acres (from 2001 Rezoning)

Employment	45%
Commercial	12.5%
Adaptive Reuse Site	1.5%
Open Space/Recreation	22.5%
School/Public Use Site	12.5%

The site of this Phase I amendment was the subject of several previous rezonings. In 1994, the Westview MXD was approved for 377 acres of land. Currently in effect and most recent is the Westview South MXD, which was approved in 2001. The Westview South rezoning was applied to a 200 acre portion of the southern half of the Westview MXD. At that time, the most significant change to the rezoning conditions was the removal of a residential land use component from the approved land use mixture.

The Westview South MXD began construction after the 2001 rezoning and several portions of the project have been completed, including portions of a commercial area to the east along MD85, portions of an employment area to the west along New Design Road, and major road connections. In addition, the site includes areas within the Ballenger Creek Trail Master Plan, and a large portion of the trail has been constructed.

Given that the 1994 Westview MXD rezoning included a residential land use component, dedication of a school site was required as a condition of approval. While the Westview South MXD rezoning removed the residential land use component that was previously approved, a condition requiring the dedication of a school site that was previously included was carried over to the 2001 conditions. The only change in this condition in the 2001 rezoning was the addition of a more general reference to the requirement as a “school/public use site”.

In general, conditions from the 1994 rezoning were applied to the 2001 rezoning with some amendments and deletions. Eight new conditions were also added to the 2001 rezoning.

This Phase I Amendment is being processed in conjunction with a Development Rights and Responsibilities Agreement and the Adequate Public Facilities Ordinance (APFO) review.

II. Mixed Use Development (MXD) Zone Summary

The MXD zoning district is a floating zone, established in 1993, and allows for an integrated mix of commercial, employment, residential, recreational, and civic/cultural uses. As a floating zone the MXD zone can only be applied to properties, which are designated either Office/Research, Limited Industrial, or Mixed Use on the Frederick County Comprehensive Plan. The MXD may also be applied over land designated Natural Resource if it is a minor portion of the project. Amendments to the MXD zone, which are referenced below, were adopted in 2010.

The regulations for the PUD and MXD floating zone districts are now combined into a single section:

1-19-10.500 Planned Development Districts

General requirements

- There is no longer a minimum tract size when applying for MXD.
- Lot sizes, setbacks, and building heights shall be established by the Planning Commission at the Phase II review.
- Building heights would be established by the Planning Commission (*10. 500.7 (F) (2)*).
- Open space/Green Area - shall be no less than 30% of the total area shown for residential development and 20% of the total area devoted to commercial and employment uses. BOCC has discretion to reduce this by no more than 50% (*10.500.7 (B)*).
- Water and Sewer - Property shall have PS – Planned Service classification to apply for MXD Phase I. Phase II review requires a W-4/S-4 classification.
- Public Facilities – May require sites for schools, libraries, fire stations based on need using established county standards of service. (*10.500.8 (B)*)
- Review Process – Two step process, Phase I rezoning step and Phase II: Execution Phase which follows subdivision or site plan reviews as applicable.

Permitted Land Uses (see Section 10.500.7)

The land use mix is established during the Phase I rezoning review and is still oriented to the employment uses. The BOCC has discretion to deny or modify the land use mix. FcPc may approve minor modification of individual land use locations. Any land use mix changes to an approved Phase I plan must be approved through a revised/new Phase I application.

- Residential – Oriented to medium/high density residential and allows all types of residential uses now including single-family detached dwellings. Residential uses cannot exceed 25% of the gross project acreage.
- Commercial - includes all uses permitted in the General Commercial zone with exceptions noted in section 10.500.7 (A) (2). Cannot exceed 25% of gross project acreage when project includes a residential component. If there is no residential component, the commercial portion could include up to 45% of the gross project acreage exclusive of floodplain. When combined with a residential component cannot exceed 40% (both residential and commercial areas) of gross acreage or 50% exclusive of floodplain, whichever is less.

- Employment – employment uses, regardless of whether the MXD is applied to LI or ORI designated land, shall be limited to those uses permitted in the Office/Research/Industrial zoning district. Old language required MXD's applied to LI designation follow LI zone uses.

For projects with a residential component it is no longer required that some minimal amount of non-residential development be constructed first.

- Institutional - allow for recreational and community activities, public services/facilities, health care facilities, schools, and institutional uses referenced in Section 1-19-5.310 Use Table.

General Development Standards (See Section 10.500.9)

- Site and building design - addresses integration of land uses, orientation of buildings, parking design and access, pedestrian access, landscaping and open space design.
- Natural Features – addresses protection of natural features such as forest areas and visual impacts of development on surrounding properties. Lands with PUD zoning, but with a land use plan designation of Natural Resource may not be developed with residential or commercial/employment structures.
- Public Facilities and Utilities – location, design, and extent of proposed facilities shall be in accordance with County standards and the Comprehensive Plan.
- Modifications - as part of the Phase II Execution review the Planning Commission may approve modifications to parking, street design, landscaping, buffering, and general development standards in *Section 10.500.9 (A)*.

III. Approval Criteria

§ 1-19-3.110.4. APPROVAL CRITERIA. (for Zoning Amendments)

(A) Approval or disapproval of a request for an individual zoning map amendment or floating zone reclassification shall be determined through review of several criteria. The Planning Commission and Board of County Commissioners review will include, but not be limited to:

- (1) Consistency with the comprehensive plan;
- (2) Availability of public facilities;
- (3) Adequacy of existing and future transportation systems;
- (4) Compatibility with existing and proposed development;
- (5) Population change; and
- (6) The timing of development and facilities.

§ 1-19-10.500.3. APPROVAL CRITERIA. (for Planned Development Districts)

The Board of County Commissioners may approve or disapprove a request for rezoning of property to a Planned Development District if persuaded that granting the request is appropriate and serves the public interest. The approval or disapproval of a request for the application will be determined through evaluation of several criteria to establish whether the proposed project meets the purpose and intent of the zoning district. **In addition to the requirements in § 1-19-3.110.4**, the Planning Commission and Board of County Commissioners must find that the project adequately addresses the following criteria:

(A) The proposed development is compact, employing design principles that result in efficient consumption of land, efficient extension of public infrastructure, and efficient provision of public facilities;

(B) The proposed development design and building siting are in accordance with the County Comprehensive Plan, and any applicable community and corridor plans;

(C) The proposed development is compatible with existing or anticipated surrounding land uses with regard to size, building scale, intensity, setbacks, and landscaping, or the proposal provides for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping; or other design features in accordance with the County Comprehensive Plan, and any applicable community or corridor plans;

(D) The proposed development provides a safe and efficient arrangement of land use, buildings, infrastructure, and transportation circulation systems. Factors to be evaluated include: connections between existing and proposed community development patterns, extension of the street network; pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;

(E) The transportation system is or will be made adequate to serve the proposed development in addition to existing uses in the area. Factors to be evaluated include: roadway capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts, projected construction schedule of planned improvements, pedestrian safety, and travel demand modeling;

(F) The proposed development provides design and building placement that optimizes walking, biking, and use of public transit. Factors to be evaluated include: extension of the street network; existing and proposed community development patterns; and pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;

(G) Existing fire and emergency medical service facilities are or will be made adequate to serve the increased demand from the proposed development in addition to existing uses in the area. Factors to be evaluated include: response time, projected schedule of providing planned improvements, bridges, roads, and nature and type of available response apparatus;

(H) Natural features of the site have been adequately considered and utilized in the design of the proposed development. Factors to be evaluated include: the relationship of existing natural features to man-made features both on-site and in the immediate vicinity, natural features connectivity, energy efficient site design, use of environmental site design or low impact development techniques in accordance with Chapter 1-15.2 of the Frederick County Code;

(I) The proposed mixture of land uses is consistent with the purpose and intent of the underlying County Comprehensive Plan land use designation(s), and any applicable community or corridor plans;

(J) Planned developments shall be served adequately by public facilities and services. Additionally, increased demand for public facilities, services, and utilities created by the proposed development (including without limitation water, sewer, transportation, parks and recreation, schools, fire and emergency services, libraries, and law enforcement) shall be evaluated as adequate or to be made adequate within established county standards.

IV. Applicant's Proposal

Land Use Concept

The Applicant is proposing to replace employment land use previously approved within the 2001 MXD with residential land use. Additionally, the Applicant is requesting to rezone an additional 9.33 acre portion of land located along the southern boundary of the site, from Limited Industrial (LI) to MXD. With this additional land area, the total project acreage would increase from 200.7 acres to 210 acres.

<i>Approved 2001 Land Use Mixture – 200.7 acres</i>			<i>Proposed Land Use Mixture – 210 acres</i>		
	<i>% of total land area</i>	<i>acreage</i>		<i>% of total land area</i>	<i>acreage</i>
Employment	45.0%	90.3	Employment	32.57%	68.4
Commercial	12.5%	25.1	Commercial	11.47%	24.1
Adaptive Reuse Site	1.5%	3.0	Open Space	30.10%	63.2
Open Space/Recreation	22.5%	45.2	Residential	19.97%	41.9
School/Public Use Site	12.5%	25.1	(615 dwellings)		

The most significant proposed change to the general layout of the development is the location of residential land use on the north side of executive way on the western side of the overall site. The layout of the currently approved MXD locates employment use in this area, which under this amendment would be replaced by the proposed residential land use. No changes are proposed for the remaining site area, with employment uses located on the southern side of Executive Way and on the western side of the overall site, and commercial uses located along MD85 to the north and south of Executive Way on the eastern site of the overall site.

A total of 615 residential dwellings are proposed. The Applicant's justification Statement identifies a potential unit type breakdown of 21% single family dwellings and 79% attached/multifamily dwellings, with a caveat that final unit mix will be established at Phase II of the development review process. However, the Applicant is proceeding with a concurrent Development Rights and Responsibilities Agreement and Adequate Public Facilities Ordinance review, therefore a more precise residential unit mix has been established relative to adequacy testing for school capacity. This mix assumes of 129 single family dwellings, 126 townhouse dwellings, 60 two-over-two condos, and 300 multifamily dwellings.

V. Evaluation - Relationship to the County Plans and Regulations

Consistency with Comprehensive Plan Designation and Guidelines

The Westview MXD is within the Ballenger Creek Community Growth Area as designated on the County Comprehensive Plan and has a land use plan designation of Office Research Industrial and Limited Industrial. As such, it is identified as an area that has been targeted for growth and development of this area is therefore consistent with the general policy in the Comprehensive Plan that supports the location of growth within designated areas. The MXD floating zone can only be applied to land with a land use plan designation of Mixed Use Development, Limited Industrial, or Office/Research/Industrial. Amendment of the MXD zone is consistent with the County Comprehensive Plan.

Comprehensive, Community and/or Corridor Plans

There has not been a specific Community or Corridor Plan developed for the vicinity of the project site. However, the County Comprehensive Plan outlines overall community development principles such as encouraging higher density development, a mix of land uses, providing distinctive design that contributes to a distinctive community character, efficiency of layout relative to public infrastructure, and general accessibility through multiple modes of transport as well as interconnectedness of the transportation network.

As illustrated in the Phase I Amendment application material, the layout of the proposed development capitalizes on the surrounding natural and constructed infrastructure. The Ballenger Creek corridor is developed as a component of a regional trail network, and ample green area is provided along this feature. The site is flanked by two major roads, New Design and MD85, and is in close proximity to an I-270 interchange.

The layout appears to be influenced by a strategy of matching land use types to surrounding conditions by employing common tactics of access and adjacency. For example, commercial uses are located at the location with the highest level of traffic volume and easiest access from regional origins. Residential uses are located adjacent to roads with less traffic volume and in close proximity to other residential uses to the northwest of the site. Similarly, employment uses are located to the south of the residential, adjacent to additional employment and industrial uses to the south of the site. The residential and employment are further buffered from the higher intensity commercial area by the Ballenger Creek trail and green area.

The proposed layout for the residential portion of the site employs an interconnected network of roads and building types whose frontage bounds a streetscape enclosure. The configuration suggests a pedestrian oriented street network, with regular intersections between proposed streets.

If streets are designed as common spaces that are open for use and accessible to neighborhood residents, then a high proportion of streetscape area to dwelling unit yield will result in more common area per dwelling. This result can potentially be realized in this development due to the gridiron street pattern illustrated in the application.

Current Zoning, Adjoining Land Uses and Natural Features

The Project site is zoned MXD, which was originally applied in 1994 to a land area that included an additional 177 acres to the north of the current site. In 2001, the MXD was amended only for the southern portion of the site, a land area totaling +/- 200 acres. The site was zoned Agricultural (A) from 1959 to 1986/87, at which time it was rezoned Office/Research/Industrial (ORI).

Adjoining the property to the west of the Project site are the residential subdivisions of Kingsbrook, Robin Meadows, and Wellington Trace. To the east of the site are office and industrial uses, including the State Highway offices, the Omega Center and the Center at Monocacy. Directly to the north of the site is the Westview MXD, which includes office and retail uses. The adjoining properties directly to the south are in office and industrial use, and include the Wedgewood Business Park and Tamko Asphalt. The Russell Property, a planned six lot industrial subdivision is currently in various stages of review. Adjacent to this property along MD 85 is the location of the Arcadia Mansion, a property on the National Register of Historic Places.

Ballenger Creek crosses the site, flowing from northwest to southeast into the Monocacy River to the east. A significant portion of the site along Ballenger Creek is within the Federal Emergency Management Agency (FEMA) 100 year floodplain.

Land Use Mixture

The MXD zone is proposed to be "re-applied"/extended to a gross area of +/- 210 acres of land. The total floodplain area within the Project boundary is 42.34 acres. The gross project acreage exclusive of floodplain is 167.66 acres. The proposed land use mixture of the Project relative to the allowable land use mixture of the County Zoning Ordinance § 1-19-10.500.7 (B) (1) is as follows:

Land Use	Minimum Percentage of Total Project	Maximum Percentage of Total Project	Allowable/Required	Proposed
Residential	n/a	25% gross project acreage exclusive of floodplain	167.66 acres x .25 = 41.9 acres maximum	41.9 acres
Commercial (where project includes residential component)	n/a	25% gross project acreage exclusive of floodplain	167.66 acres x .25 = 41.9 acres maximum	24.1 acres
Combined commercial and residential portions of the MXD	n/a	40% gross project acreage or 50% of the gross project acreage exclusive of floodplain, whichever is less	210 x .4 = 84 acres Or 167.66 x .4 = 83.83 acres maximum	66 acres
Open space/green area	20% of total area devoted to commercial and employment/ industrial uses	n/a	92.59 x .2 = 18.5 acres minimum	63.27 acres
	30% of total area devoted to residential uses		41.9 x .3 = 12.57 acres minimum	
The remainder of the site shall be used for employment, civic/institutional, and cultural uses.			Total proposed employment acreage is 68.5 acres.	

The proposed residential yield of the project is 615 dwellings. Various residential density calculations of the project are as follows:

Res. density of entire Project	615 dwellings / 210 acres = 2.9 units per acre
Res. density of Project excluding floodplain	615 dwellings / 167.66 acres = 3.67 units per acres
Res. density of residential portion of Project	615 dwellings / 41.9 acres = 14.7 units per acre

Res. = residential

The potential additional population change as a result of the proposed 615 units equates to 1,661 persons, based on 2.7 persons per household.

The maximum density (615 residential dwellings) of the Project shall be established at Phase I by the BOCC after review and evaluation of the following factors per §1-19-10.500.7(F)(1)(b):

1. Existing and planned availability of public facilities and utilities.

Previous regulatory review and subsequent progression of this project have established measures of adequacy for public facilities/utilities that have been or will be met as the Project proceeds. The impact that would result from the introduction of residential land use to the Project falls within the adequacy thresholds established by previous reviews for transportation and water & sewer facilities. Schools adequacy for the proposed yield of residential dwellings will be met in conjunction with this application, and the tandem development of a Development Rights and Responsibilities Agreement (DRRA) and a Letter of Understanding (LOU) establishing public facilities adequacy mitigation according to the requirements of the Adequate Public Facilities Ordinance (APFO).

2. Access to existing or planned transportation networks with consideration that the highest density commercial, employment, and residential developments should be located near access to major thoroughfares, public transportation systems, and transit hubs to facilitate smart growth principles and compact development.

The Project site is directly adjacent to two Major Arterials (MD85 and New Design Road), and is in close proximity to two Interstates (I270 and I70). Additionally, the Applicant has constructed a collector level road connection between the two Major Arterials (Executive Way). Additionally, the Project is located within the Ballenger Creek Community Growth Area.

3. The physical characteristics of the site proposed for development with particular emphasis on development constraints which may restrict achievable density and dwelling type, including natural features such as steep slopes and floodplain.

4. The shape of the site proposed for development.

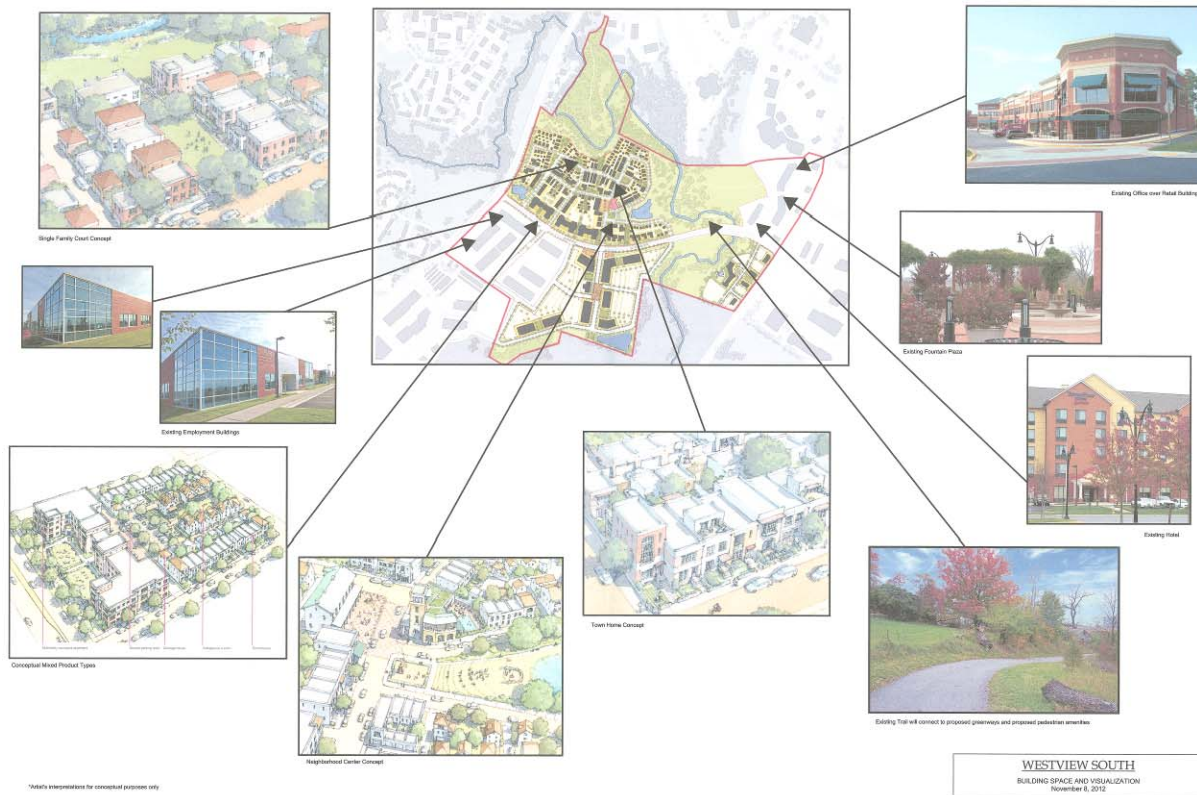
5. The design of the proposed development.

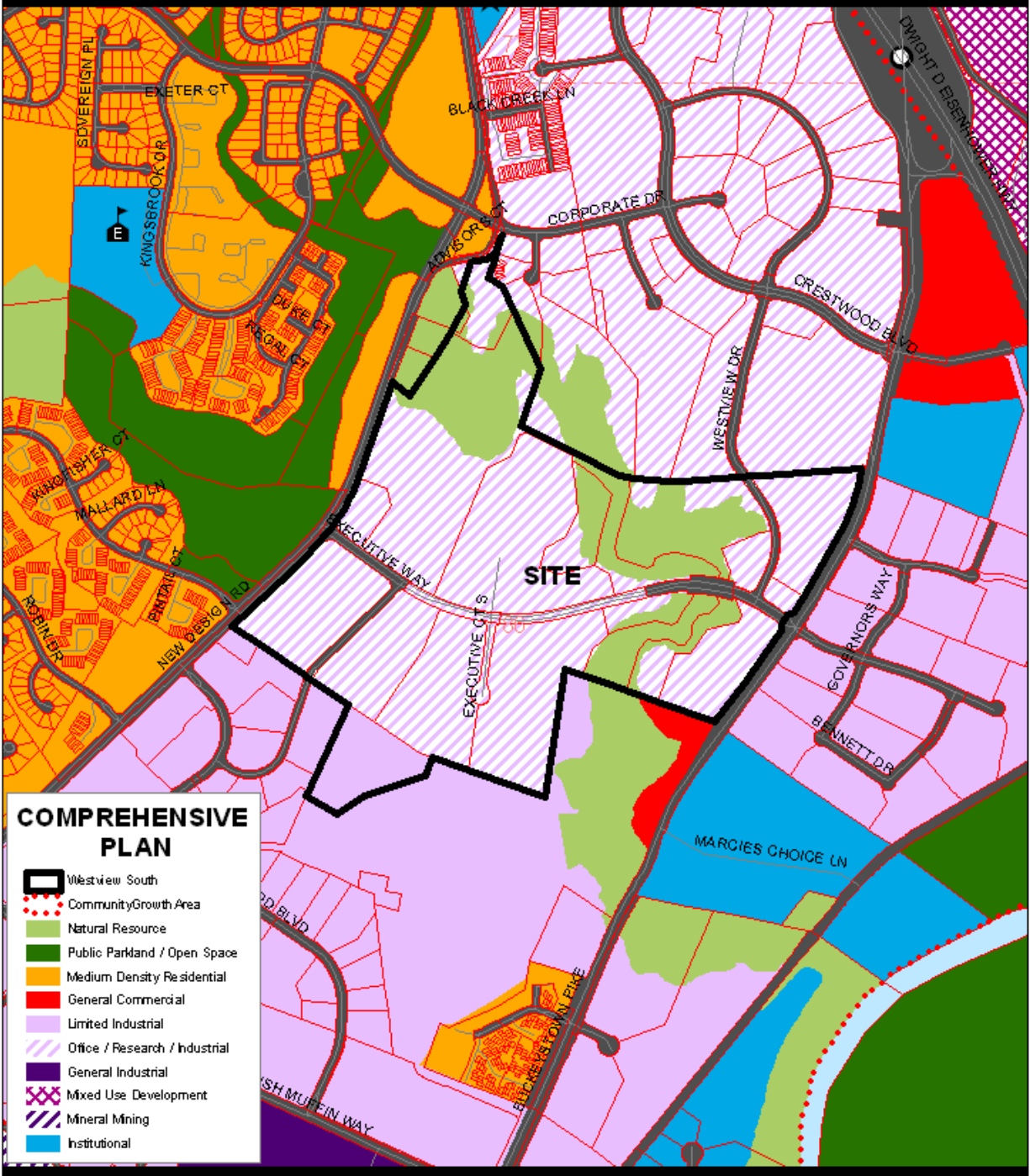
6. Any other relevant information that may have a bearing on the achievable density of the proposed development.

There are no steep slopes within the residential portion of the Project site. 100 year FEMA floodplain is along Ballenger Creek and is incorporated into the open space and County trail system, but it is not developed with residential structures. Rough grading of the site relative to previous plan approvals is currently underway.

The generalized perimeter of the area planned for residential land use is minimal relative to its internal land area, which results in a unicentrically concentrated grouping of dwellings. Additionally, the interconnected pattern of streets identified in the concept plan for the residential area maximizes transportation related throughput and flexibility. These design features of the concept

plan provided support to the level of density proposed through distribution, where a minimal number of units are located on a maximum number of access features, and redundancy, where all units have multiple means of ingress and egress.



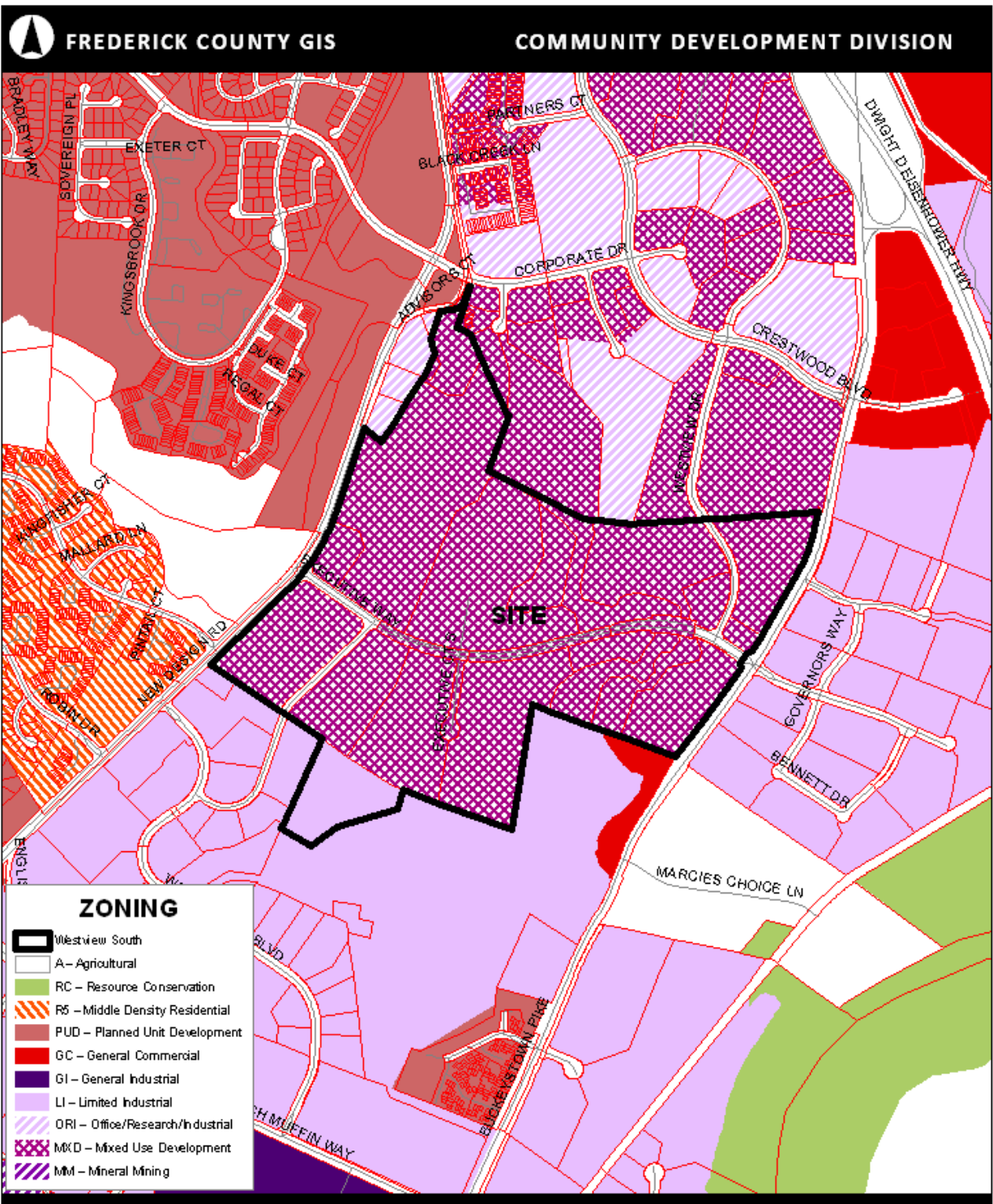


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Frederick County Government
30 North Market Street
Frederick, MD 21701
(301) 600 - 1138
January 3, 2013





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VI. Evaluation - Availability & Adequacy of Public Facilities and Services

Availability Public Schools, Water & Sewer, Public Safety, Libraries, and Parks & Recreation

PUBLIC SCHOOLS

The following is an analysis of the potential enrollment impacts on the Frederick County Public Schools only for the dwellings proposed by the PUD. Background enrollment is not included in this chart but is considered as part of any official APFO schools test.

Total Proposed Dwellings in MXD: **129 Single Family Detached**
 126 Single Family Attached/Townhouses/
 60 Two-over-two
 300 Multifamily/Apartments

School Level	2013 Total Enrollment ¹ / State Rated Capacity ¹	% of State Rated Capacity	Total Projected Pupils from MXD			
			Single Family Detached	Single Family Attached	Two-over-two	Multifamily/Apartments
Tuscarora Elementary	765/662	116%	30	34	7	24
Crestwood Middle	514/600	86%	17	13	3	6
Tuscarora High	1,482/1,606	92%	26	18	2	9

1. Board of Education (BOE) Quarterly Enrollment Report – March 2013

Programmed Improvements

There are no programmed school system facility improvements in the FY2013-2018 Capital Improvements Program for the schools that serve the project.

Planned Improvements

The County Comprehensive Plan does not specifically identify a proposed elementary school site in the vicinity of the Project. However, given the proposed modification of this project to include residential uses, as well as the over-capacity status of Tuscarora Elementary School, an additional elementary school in this area has been identified as a necessity. Additionally, a school site within this Project is currently required per the conditions of approval of the existing MXD.

WATER AND SEWER

The majority of the site is designated S-3/W-3 in the Master Water and Sewerage Plan. This denotes properties where improvements to, or construction of, publicly-owned community sewer or water systems are planned to be completed and operational within 3 years. Properties classified S-3/W-3 shall connect to the public system when service lines abut the property. Some developed portions of the site currently are connected to water and sewer service. As such, they will be administratively reclassified S-1/W-1 during regular Water and Sewerage Plan updates.

The 9.3 +/- acre portion proposed to be added to the MXD is currently designated S-5/W-5 in the Master Water and Sewerage Plan. This denotes properties where improvements to, or construction of, publicly-owned community sewerage or water systems are planned within the 7-10 year time period. Properties classified S-5/W-5 are not required to, but may, connect to the community system.

Water is supplied to the Site from the Potomac River via the New Design Water Treatment Plant. Wastewater from the site is treated at the Ballenger/McKinney Wastewater Treatment Plant along the Monocacy River.

There are no programmed improvements for water and sewer utilities in the FY2013-2018 Capital Improvements Program in the vicinity of the Project.

PUBLIC SAFETY FACILITIES

There are programmed improvements for public safety facilities related to maintenance of facilities in the FY2013-2018 Capital Improvements Program that serve the Project. The nearest fire station is the Westview Station, located approximately 1.5 miles from the site.

LIBRARIES

The Frederick County C. Burr Artz Public Library is in downtown Frederick City serves this area. There are no libraries programmed in the FY2013-2018 CIP, nor any libraries planned for in the vicinity.

PARKS AND RECREATION FACILITIES

The site is within the area defined in the Ballenger Creek Trail Master Plan for a comprehensive trail system serving the entire Ballenger Creek Community. A large portion of the trail has been constructed by the Applicant, except for a portion in the northern part of the site. This portion is funded for design and construction in the FY2013-2018 CIP under the Bikeways and Trails Program with potential funding from a grant through the Federal Transportation Enhancement program.

The Project is required to provide a minimum of 18 acres of open space/green area. The total open space provided in the Project is 63 acres. With 42 acres of floodplain within the open space provided, total non-floodplain open space is 21 acres. Given the Trail is located through the site, a combination of active and passive parks and recreation facilities are being provided.

The MXD regulations require 726 square feet of parks/recreation space per 2000 square feet of gross floor area. The current APFO LOU indicates a total of 1,626,550 square feet of retail/business services/office/research and development space. Gross floor area for residential uses is estimated at a rate of 1,500 square feet per dwelling. At 615 dwellings, this results in 922,500 square feet of gross floor area. The overall estimated gross floor area for the project is therefore 2,549,050 square feet. Therefore the required active/passive park area for the MXD is $(2,549,050 / 2000) \times 726$ or 925,305 square feet (21 acres). At 63 acres, the Applicant has provided adequate parks and recreation area to meet the MXD standard.

Adequacy of Transportation

EXISTING SITE ACCESS CHARACTERISTICS

The site has approximately 2,200 feet of frontage along New Design Road, and approximately 2,900 feet of frontage along MD85. Access to the Project is from New Design Road and MD85, and from Executive Way. Direct access to land with frontage along Executive Way is attained from local roads, such as International Boulevard, Executive Court, and street connections to the proposed residential use.

EXISTING TRAFFIC VOLUMES ON ADJOINING ROADS

Location	AADT: 2011 Annual Average Daily Traffic
Crestwood Boulevard: .20 miles west of MD85	20,914
MD85: .20 miles south of I270	46,450
MD85: .10 miles north of English Muffin Way	15,292
New Design Road: .20 mi. north of Crestwood Blvd.	15,322

COMPREHENSIVE PLAN DESIGNATIONS FOR ADJOINING ROADS

The County Comprehensive Plan classifies New Design Road and MD85 as Major Arterials. Executive Way is not designated on the Comprehensive Plan, however it effectively serves as a collector road.

The impact of the development on the transportation system was tested for adequacy in

All identified road improvements in the current Adequate Public Facilities Ordinance Letter of Understand (APFO LOU) have been satisfied to date except for a signal installation on New Design Road and Executive Way and a turning movement restriction at Pegasus Ct. and MD 85. These requirements are updated in the proposed APFO LOU.

VII. Evaluation – Prior Approvals

The site of this Rezoning Amendment was the subject of several previous rezonings. In 1994, the Westview MXD was approved for 377 acres of land. Currently in effect and most recent is the Westview South MXD, which was approved in 2001. The Westview South rezoning split off a 200 acre portion of the Westview MXD, with the most significant change being the removal of the residential land use component from the approved land use mixture.

At this time, conditions from the 1994 rezoning were carried over to the 2001 rezoning amendment, with some modifications and deletions. In addition, eight new conditions, demarcated with a letter instead of a number, were added to the 2001 rezoning amendment.

Given the progress that has been made in the development of this Project since 2001, many of the conditions are either satisfied or no longer relevant. The following is a brief assessment of each condition from the 2001 rezoning amendment.

1. *Deleted*
2. *The location of the three acre alternative public use area (i.e., library site) shall be determined by the Planning Commission at the time of preliminary plat approval.*

This condition from the 1994 rezoning either refers to the current location of the Westview Fire Station, which has been built, or a library site that is not planned for this area. Therefore it has been satisfied.

3. *Deleted*
4. *The office/accessory retail area shown on the land use plan attached to Ordinance No. 94-14-109 as Exhibit A shall be developed so as to minimize strip commercial appearance on Maryland Route 85.*

The retail along MD85 has mostly been built. Vacant commercial land within the Project along MD85 will likely resemble existing development. In addition, current MXD code provisions provide for better design requirements and flexibility.

5. *Prior to the approval of any preliminary plat, the Frederick County Planning Commission must approve a phasing plan which sets forth the timing for the provision of open space, recreational and public amenities and coordinates the timing of commercial uses with the office development schedule as set forth in the MXD Ordinance (Fred. Co. Code § 1.19-324). Existing uses and employees on the developed portions of the Westview Corporate Campus, as well as fully developed employment lots available for sale, will be considered in preparing this phasing plan.*

This condition refers to the original 1994 rezoning. A majority of the Project has been built and phasing of the Project has been implemented.

6. *The area of retail, accessory retail, service retail, hotel/conference and restaurant commercial uses shall be limited to no more than 37 acres.*

The mix of land use is established through the approval of the Phase I Amendment and does not need to be a separate condition.

7. *Architectural review of the commercial office areas shall be required by the Planning Commission at the time of site plan approval. This architectural review shall be to ensure compatibility with the existing and surrounding neighborhood and for compliance with the purpose and objectives of this Ordinance and Mixed Use Development District as stated in Sec. 1-19-324 of the Frederick County Code.*

This condition is duplicative in that it is required in the current Zoning Ordinance under § 1-19-

10.500.9. As site plans come before the Planning Commission for review, the Applicant will be required to meet the requirements of the Ordinance.

8. *Prior to the approval of any site plan or preliminary plan south of Crestwood Boulevard, the design of the internal roadway connection parallel to Maryland Route 85 will be evaluated by the Frederick County Planning Commission to provide adequate connection from the spine road to Crestwood Boulevard.*

This condition refers to Westview Drive. The construction of this road is complete and this condition has been fulfilled.

9. *The Planning Staff must approve the design of the Ballenger Creek open space to ensure that adequate area is dedicated for continuous public linear park access. If any of the proposed active recreational areas cannot be constructed within the Ballenger Creek floodplain area, then additional land outside of the floodplain up to a maximum of 10 acres must be provided for active recreational use sufficient to replace the land in which the recreational areas cannot be constructed.*

The Ballenger Creek Trail has been constructed by the Applicant through the site, with the exception of a segment in the north of the site. This segment is funded for design and construction by the County. The Applicant has met open space/green area and active and passive recreation requirements of the MXD zone, and therefore this condition is no longer relevant to this site.

10. *The phasing plan must include the provision that no nonresidential plans will be approved for the portion of the property south of Ballenger Creek until access is provided through the southern portion of the property to Maryland Route 85 or New Design Road improvements (as shown on the currently adopted Capital Improvements Project) are completed.*

Executive Way has been built and therefore this condition has been fulfilled.

11. *Deleted*

12. *The 33 acre retail area shown on the land use plan (Exhibit A attached to Ordinance No. 94-14-109) at the Southwest intersection of Crestwood Boulevard and Route 85 shall be reduced to a maximum of 20 acres with the remainder of the 33 acre area being used in the office/research category.*

This condition refers to the Westview retail center, which is part of the 1994 Westview MXD and is therefore not relevant to this rezoning.

13. *The applicant shall dedicate to Frederick County a school/public use site of at least twenty acres. The exact location of this school/public use site shall be mutually agreed upon among the applicant, the Planning Staff, and the Board of Education.*

New proposed conditions address this issue.

- A. *Additional traffic analysis shall be conducted before Phase II review and approvals to allow adequate analysis of project build out transportation impacts.*

Traffic studies have been conducted for Westview South and adequacy requirements have been established in a current APFO LOU, and will be sustained where appropriate in the proposed amended APFO LOU.

- B. *For the traffic signal, which is pending at New Design Road/Corporate Drive, the applicant shall perform a signal warrant analysis, and agree to design it and contribute a prorated share towards installation/construction. Such prorated share shall include any assignment of costs associated with the signal; i.e., design, construction, rights-of-way acquisition, inspections, etc. Such specifications shall be identified in the necessary Developer's Option Letter and the resulting County Letter of Understanding.*

Per the existing APFO LOU, this condition has been satisfied.

- C. *The applicant shall discuss the results of its "traffic study" pertaining to the I-270/MD85 ramps with the State Highway Administration (SHA), to confirm their feasibility or develop alternative solutions, acceptable to SHA.*

This condition is redundant and not necessary because any proposed improvement to State roads by default involves the State Highway Administration.

- D. *The entire four-lane typical section east-west spine road shall be completed, including the bridge over Ballenger Creek, before the occupancy of a total of 500,000 square feet of development within Westview South. The applicant shall further be required to have the four-lane typical section road fully designed and approved by all necessary agencies (i.e., Division of Public Works, Division of Planning, etc.) including obtaining the necessary bridge permits and design approvals before the issuance of a building permit for the 300,001 square foot of development within Westview South. In addition, the applicant shall be required to submit a Letter of Credit, in a form acceptable to the Board of County Commissioners of Frederick County, Maryland to secure the financial obligation to fund the future, completed four-lane typical section road, including the bridge over Ballenger Creek before the issuance of a building permit for the 300,001 square foot of development within Westview South.*

The four-lane typical section east-west spine road is Executive Way, which has been completed. Therefore this condition has been satisfied.

- E. *With regard to any improvements to MD 85 to be completed by the Applicant, the Applicant shall coordinate and confirm that any resulting mitigations are compatible or timed to be so with the ultimate improvements, which will result from the ongoing MD85 Corridor Study.*

Improvements to MD85 have been built and this condition has been satisfied.

- F. *The Frederick County Planning Commission as part of site plan approval in order to ensure that the objectives of the MXD Zoning District are met must approve the type of commercial retail uses.*

The requirements of the MXD zone regarding site plan review are outlined in the Zoning Ordinance and will be adhered to at the time of site plan review. Therefore this condition is not required.

- G. *The architectural design theme of the commercial retail area must be submitted to the Frederick County Planning Commission for review and approval concurrent with any site plan approval.*

The requirements of the MXD zone regarding site plan review are outlined in the Zoning Ordinance and will be adhered to at the time of site plan review. Therefore this condition is not required.

- H. *Construction of the initial phase of the employment uses shall occur prior to or concurrent with the construction of the initial phase of the commercial retail.*

An initial phase of employment has been constructed, therefore this condition has been satisfied.

VIII. Summary of Findings

Since 2001, transportation and public water/sewer facilities have been constructed and are available within the development. As described previously in this report, build out of several land bays has been completed. The exchange of employment for residential land use within the Project will not require additional public improvements. Given the progress of development within the Project as a whole, the development of proposed residential land will likely occur as a final stage or in tandem with the final portion of employment land.

Staff finds that the project adequately addresses the approval criteria described in the Zoning Ordinance.

§ 1-19-3.110.4 (A) (Approval Criteria for Zoning Map Amendments)

(1) Consistency with the comprehensive plan;

The Westview South MXD Project is located in an area with an appropriate land use plan designation of Limited Industrial and is within a Community Growth Area. The Frederick County Zoning Ordinance allows for the application of the Mixed Use Development floating zone (MXD) on properties with a Comprehensive Plan land use designation of Limited Industrial. The MXD zone is designed to enhance the opportunities for employment uses in the County by allowing a greater variety of mutually reinforcing land uses to occur within a single development. Therefore, both the MXD floating zone and the Limited Industrial land use plan designation emphasize employment uses, and are therefore essentially compatible in application and intent.

(2) Availability of public facilities;

Water is supplied by the New Design Water Treatment Plant. Sewer is/will be treated by the Ballenger McKinney Wastewater Treatment Plant.

The impact that the Project will have on schools and water & sewer infrastructure has been partially mitigated under the requirements Adequate Public Facilities Ordinance in the current Letter of Understanding. An amended Letter of Understanding is being developed concurrent with this application to mitigate the impact on schools and water & sewer caused by proposed changes to the Project.

(3) Adequacy of existing and future transportation systems;

The Project Site is bound on the east and west by major arterials, and bisected by a road that is equivalent to a collector.

The impact that the Project will have on roads has been partially mitigated under the requirements Adequate Public Facilities Ordinance in the current Letter of Understanding. An amended Letter of Understanding is being developed concurrent with this application to mitigate the impact on public facilities caused by proposed changes to the Project.

(4) Compatibility with existing and proposed development;

The layout appears to be influenced by a strategy of matching land use types to surrounding conditions by employing common tactics of access and adjacency. For example, commercial uses are located at the location with the highest level of traffic volume and easiest access from regional origins. Residential uses are located adjacent to roads with less traffic volume and in close proximity to other residential uses to the northwest of the site. Similarly, employment uses are located to the

south of the residential, adjacent to additional employment and industrial uses to the south of the site. The residential and employment are further buffered from the higher intensity commercial area by the Ballenger Creek trail and green area.

(5) Population change; and

The potential additional population change as a result of the proposed 615 units equates to 1,661 persons, based on 2.7 persons per household.

(6) The timing of development and facilities.

Mitigation of impacts that development will have on public facilities are required to be satisfied as development proceed through the review process under the authority of the Frederick County Code, including the Zoning Ordinance, the Subdivision Rules and Regulations, and the Adequate Public Facilities Ordinance. Mitigation measures are accordingly required to be satisfied at development milestones, such as the recordation of plats, or the issuance of building permits.

§ 1-19-10.500.3. (Approval Criteria for Planned Development Districts)

(A) The proposed development is compact, employing design principles that result in efficient consumption of land, efficient extension of public infrastructure, and efficient provision of public facilities;

The 615 dwellings are proposed on the residential portion of the project, which will total 41.9 acres. As such, the gross density of Project is over 14 units per acre. The entire Project Site is located between two areas of developed land, and is centrally located in the Ballenger Creek Community Growth Area. Therefore it does not intensify the outward spread of urbanized land into rural areas, and employs a relatively high density development pattern.

(B) The proposed development design and building siting are in accordance with the County Comprehensive Plan, and any applicable community and corridor plans;

See item (1) above. There is no Community and Corridor Plan for this area.

(C) The proposed development is compatible with existing or anticipated surrounding land uses with regard to size, building scale, intensity, setbacks, and landscaping, or the proposal provides for mitigation of differences in appearance or scale through such means as setbacks, screening, landscaping; or other design features in accordance with the County Comprehensive Plan, and any applicable community or corridor plans;

See item (4) above. Potential incongruities in the physical features of future development among the various land use categories proposed in the Project are typically moderated by transitional infrastructure. For example, the residential area is bordered on the south by Executive Way and on the east by the Ballenger Creek Trail Park, thus separating the land area from the employment and commercial uses. However these separations do not function as barriers, and rather allow passage and circulation across and through them, and can even serve as destinations, as in the case of the Ballenger Creek Trail Park. Therefore compatibility in the project is attained through joining distinct areas through the use of a third transitional area, rather than through the use of discrete separations, such as walls or berms.

(D) The proposed development provides a safe and efficient arrangement of land use, buildings, infrastructure, and transportation circulation systems. Factors to be evaluated include:

connections between existing and proposed community development patterns, extension of the street network; pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;

The proposed plan has provided new road connections to the north via Westview Drive and to the south via International Boulevard. Land uses are integrated with surrounding development patterns by employing common tactics of access and adjacency. Executive Way has been built connecting MD85 and New Design Road. The Ballenger Creek Trail has been built through a majority of the site.

- (E) *The transportation system is or will be made adequate to serve the proposed development in addition to existing uses in the area. Factors to be evaluated include: roadway capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts, projected construction schedule of planned improvements, pedestrian safety, and travel demand modeling;*

The current and proposed Adequate Public Facilities Ordinance Letter of Understanding (APFO LOU) address the adequacy of the transportation system. Most required improvements have been completed, and the remaining improvements are required in the proposed APFO LOU.

- (F) *The proposed development provides design and building placement that optimizes walking, biking, and use of public transit. Factors to be evaluated include: extension of the street network; existing and proposed community development patterns; and pedestrian connections to, from, and between buildings, parking areas, recreation, and open space;*

The proposed layout for the residential portion of the site employs an interconnected network of roads and building types whose frontage bounds a streetscape enclosure. The configuration makes possible a pedestrian oriented street network, with regular intersections between proposed streets. The Ballenger Creek Trail will ultimately connect across the majority of the Ballenger Creek Community, which is planned to lead from Ballenger Creek Park to the Monocacy River. All new streets have been built with sidewalks.

- (G) *Existing fire and emergency medical service facilities are or will be made adequate to serve the increased demand from the proposed development in addition to existing uses in the area. Factors to be evaluated include: response time, projected schedule of providing planned improvements, bridges, roads, and nature and type of available response apparatus;*

The nearest public safety facility is the Westview Fire Station, located approximately 1.5 miles from the site. The Project Site is located within a 4 minute travel time radius from the fire station.

- (H) *Natural features of the site have been adequately considered and utilized in the design of the proposed development. Factors to be evaluated include: the relationship of existing natural features to man-made features both on-site and in the immediate vicinity, natural features connectivity, energy efficient site design, use of environmental site design or low impact development techniques in accordance with Chapter 1-15.2 of the Frederick County Code;*

The site is within the Ballenger Creek Trail Master Plan area, and a large portion of the trail has been constructed. The alignment of the trail and the associated green area flanking the trail encompass the 100 year FEMA floodplain.

- (I) *The proposed mixture of land uses is consistent with the purpose and intent of the underlying County Comprehensive Plan land use designation(s), and any applicable community or corridor plans;*

The Project Site is designated Limited Industrial and zoned Mixed Use Development (MXD). The Limited Industrial land use plan designation is described in the Comprehensive Plan as an employment designation intended to provide opportunities for warehousing, wholesaling, and limited manufacturing uses in addition to corporate office and research/development uses. The Frederick County Zoning Ordinance allows for the application of the Mixed Use Development floating zone (MXD) on properties with a Comprehensive Plan land use designation of Limited Industrial. The MXD zone is designed to enhance the opportunities for employment uses in the County by allowing a greater variety of mutually reinforcing land uses to occur within a single development. Both the MXD floating zone and the Limited Industrial land use plan designation emphasize employment uses, and are therefore compatible in application and intent.

(J) Planned developments shall be served adequately by public facilities and services. Additionally, increased demand for public facilities, services, and utilities created by the proposed development (including without limitation water, sewer, transportation, parks and recreation, schools, fire and emergency services, libraries, and law enforcement) shall be evaluated as adequate or to be made adequate within established county standards.

The Project has an existing APFO LOU, as well as a proposed APFO LOU that encompasses the remaining requirements and any new requirements for mitigation created by the addition of residential land use to the project.

IX. Recommendation

Staff recommends APPROVAL of the request to amend the Phase I MXD Plan with the following conditions:

1. The residential component of the MXD shall be limited to a maximum of 615 dwelling units. The mix of unit types, and the number of each unit type, shall be determined during the Phase II-Execution Phase.
2. Prior to recordation of the Project's first residential lot, the developer of the Project shall pay Four Hundred Fifty Thousand Dollars (\$450,000.00) toward the acquisition, planning and/or construction of an elementary school in the vicinity of the Project. This payment shall be in addition to, and not in lieu of, School Construction Fees or School Impact Fees, and shall not be eligible for any offsets.
3. Prior to recordation of the Project's first residential lot, the developer of the Project shall dedicate, if desired by the County, a 22.49 +/- acre public use site generally located as shown on the Concept Plan of the Project's MXD Phase I Plan (the "Park Site") for park use by the County. The Applicants shall be responsible for preparing a plat describing the Park Site, and the County shall advise the Applicants if the County wishes to take title to the Park Site.
4. From the time of Phase II approval for any residential section of the Project, no residential building permits may be issued until the County/Board of Education has acquired an elementary school site within the vicinity of the Project that would serve to mitigate student enrollment impact of the Project. If after 3 years, the County/Board of Education has not acquired a site, the County may issue building permits for up to 100 dwelling units per year. In no event shall the County issue building permits for more than 300 dwelling units until such time as an elementary school that would serve to mitigate student enrollment of the site is constructed, under construction, or construction funding has been allocated within the first two years of the County Capital Improvement Program.